

STATE OF VERMONT
PUBLIC SERVICE BOARD

Dig Safe Notice No. 608

In Re: CZ General Contracting, LLC, Alleged Violation)
of April 16, 2009, as reported by Telephone Operating)
Company of Vermont, LLC, d/b/a FairPoint)
Communications)

Order entered: 11/19/2009

ORDER RE: NOTICE OF PROBABLE VIOLATION

Background

1. Pursuant to 30 V.S.A. § 7001 et. seq., and Vermont Public Service Board Rule 3.800, the Vermont Department of Public Service ("Department") issued a Notice of Probable Violation of Underground Utility Damage Prevention System ("NOPV") to CZ General Contracting, LLC ("Respondent").
2. Incident Date: April 16, 2009
3. Incident Location: Cell/Radio Tower - nearby 87 Rand Road Randolph, Randolph, VT
4. Name and Address of Company that Reported the Incident to the Department: Telephone Operating Company of Vermont, LLC, d/b/a FairPoint Communications, 266 Main Street, Room 201, Burlington, VT 05401
5. Date Incident Reported to Effected Utility: April 16, 2009
6. Date NOPV issued by Department: August 25, 2009 (#1621)
7. Department's Statement of Evidence Supporting the Alleged Violation: "The Department of Public Service investigated this incident and determined the following details. CZ General Contracting made a notice of excavation activities for cell phone antenna installation to Dig Safe System Inc. FairPoint accurately located and marked its underground facilities in the area of the proposed excavation. These marks were refreshed on 4/9/09. The paint marks were not clearly visible at the time of excavation due to excavation work. CZ General Contracting used an excavator striking and damaging a FairPoint cable. This resulted in a subsequent loss of service for 2 hours. CZ General Contracting notified FairPoint of the damaged facility. The Department of Public Service issued 0 Notices of Probable Violation (NOPV) to CZ General Contracting, LLC during the 12 months preceding this incident."

8. Statute, Rule, Regulation or Order Allegedly violated: 30 V.S.A. § 7006a
9. The Department's Recommended Remedial Action(s) (Including Civil Penalties): Civil penalty in the amount of Three Hundred Dollars (\$300.00), and attendance at a Department-approved underground damage prevention seminar.
10. The Respondent has agreed to take the remedial action(s) recommended by the Department.¹

Conclusion and Order

Because the Respondent has not contested the NOPV, or the allegations therein, we conclude that the remedial action proposed in the NOPV is appropriate, and should be imposed.²

WHEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED by the Public Service Board of the State of Vermont that:

- (1) CZ General Contracting, LLC, is liable for a civil penalty in the amount of Three Hundred Dollars (\$300.00);
- (2) The check in the amount of Three Hundred Dollars (\$300.00) submitted to the Public Service Board by CZ General Contracting, LLC, on November 4, 2009, is accepted as payment in full of this civil penalty; and
- (3) CZ General Contracting, LLC, shall attend an Underground Damage Prevention Seminar at such time and place as determined by the Vermont Department of Public Service.

1. *See*, Respondent's filing of 10/13/09.

2. *See*, Public Service Board Rule 3.807(G).

Dated at Montpelier, Vermont, this 19th day of November, 2009.

<u>s/James Volz</u>)	
)	PUBLIC SERVICE
)	
<u>s/David C. Coen</u>)	BOARD
)	
)	OF VERMONT
<u>s/John D. Burke</u>)	

OFFICE OF THE CLERK

FILED: November 19, 2009

ATTEST: s/Susan M. Hudson
Clerk of the Board

NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: psb.clerk@state.vt.us)

Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Board within thirty days. Appeal will not stay the effect of this Order, absent further Order by this Board or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Board within ten days of the date of this decision and order.